

Appl. No. 10/792,351
Docket No. 9567
Amdt. dated 5 September 2007
Reply to Office Action mailed on 5 June 2007
Customer No. 27752

REMARKS

Claim Status

Claims 14 to 25 are pending in the present application. No additional claims fee is believed to be due.

Claim 14 has been amended to add the language "said plunger being slidably mounted in said hollow interior portion of said tampon holder tube, said plunger being adapted to expel said tampon through said end expulsion force increaser;" and "and a plunger;" Support for the amendment is found in originally filed claim 1.

Claim 14 has been further amended to add the language "wherein said fluid permeable bag tampon comprises at least one of absorbent chips, spheres, particles, powders, gels, beads or fibers, such that the fluid permeable bag tampon is deformable with a force of less than about three pounds per square inch;" Support for this amendment is found in the specification on page 4, second full paragraph and page 16, last paragraph.

Claim 16 has been amended to change its dependence from claim 1 to claim 14.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

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Claim Objections

Claim 15 has been objected to because it recites the element "said plunger" in line 3, and it has been alleged that there is insufficient antecedent basis for this element in the claim. In response, Applicants have amended claim 1 to include the language "said plunger being slidably mounted in said hollow interior portion of said tampon holder tube, said plunger being adapted to expel said tampon through said end expulsion force increaser;" and "and a plunger;" Support for the amendment is found in originally filed claim 1.

Claim 16 has been objected to because it depends from cancelled claim 1. In response, Applicants have amended claim 16 so that it now depends from claim 14.

Rejection Under 35 U.S.C. §102(b)/§103(a) Over U.S. 6,254,566 (Buck et al.)

Claims 14-25 have been rejected under 35 U.S.C. §102(b) as being anticipated by, or in the alternative, under 35 USC §103(a) as obvious over Buck et al.

With respect to the novelty and un-obviousness of claims 14-25: Applicants respectfully traverse this rejection, as it is the Applicants' belief that Buck et al. does not disclose, suggest, or teach a tampon and tampon applicator combination wherein the tampon comprises a fluid permeable bag, wherein said fluid permeable bag tampon comprises at least one of absorbent chips, spheres, particles, powders, gels, beads or fibers, such that the fluid permeable bag tampon is deformable with a force of less than one pound per square inch. Rather, Buck et al. discloses that its disclosed tampon may be a substantially solid device. Buck et al. goes on to further state that the term "substantially solid" means the tampon comprises portions of substantially solid density.... The sections of the tampon may comprise semi-compressed or compressed material throughout the tampon sections. (Col. 8, Lines 33 to 48) Therefore, Buck et al's disclosed tampon is a solid, rigid, semi-compressed or compressed structure, and not a deformable fluid permeable bag tampon as in the present invention. The rigidity of Buck et al's tampon is further illustrated in Figures 1, 4, 8, 9, 12A, 12B, 14A and 14B where

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the tampon is shown as a rigid compressed tubular structure that is capable of maintaining its shape after exiting the applicator.

Further, to achieve the side-to-side coverage that Buck et al. states is critical to the invention, the tampon must be at least semi-rigid. (Col. 12, Lines 18 to 24) This is demonstrated in Figure 4, 12A and 12B, where as the tampon moves through the tampon holder tube, and out through the expulsion end of the tampon holder tube, the tampon is caused to substantially directionally divide. As the tampon exits the tampon applicator and is positioned within a female user's vaginal cavity, the split portions of the tampon will preferably contact the sides and/or walls of a female user's vaginal cavity, thus enabling side-to-side coverage. (Col. 12, Lines 24 to 35) As such, the tampon must be rigid in order for the split portions of the tampon to line up at the opposing free expulsion areas, so that the tampon can be separated by the applicator guides. This is in contrast to the deformable fluid permeable bag tampon of the present invention that is contained in an applicator capable of laterally expanding the deformable tampon. The combination of the end expulsion force increasers, the force increaser sections, the side expulsion members, and the side expulsion zones are configured to laterally expand the tampon during expulsion of the tampon from the tampon applicator 21 (Page 5, 6th Full Paragraph) Further, as described in the Specification, the combination of both the end expulsion force increasers and the side expulsion members allows the tampon to change from its first position with an initial dimension in its pre-expelled state, to its second position (FIG. 2) having an increased width in its partially expelled state.

Therefore, in contrast to the deformable fluid permeable bag tampon of the present invention, to provide side-to-side coverage the tampon of Buck et al. must be at least semi-rigid to pass through the expulsion zones and be substantially directionally divided by the applicator guides. In view of the above, Applicants respectfully request that the rejection under 35 U.S.C. §102(b)/§103(a) be reconsidered and withdrawn.

Conclusion

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This response represents an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied reference. In view of the foregoing, entry of the amendments presented herein, reconsideration of this application, and allowance of the pending claims are respectfully requested.

Respectfully submitted,

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